

1 BENJAMIN J. HORWICH (State Bar No. 249090)  
2 MUNGER, TOLLES & OLSON LLP  
3 560 Mission Street, Twenty-Seventh Floor  
San Francisco, California 94105  
3 Telephone: (415) 512-4000  
Facsimile: (415) 512-4077  
4 ben.horwich@mto.com

5 JESSICA REICH BARIL (State Bar No. 302135)  
MUNGER, TOLLES & OLSON LLP  
6 350 South Grand Avenue, Fiftieth Floor  
Los Angeles, California 90071  
7 Telephone: (213) 683-9100  
Facsimile: (213) 683-5164  
8 jessica.baril@mto.com

9 *Attorneys for Plaintiff BNSF Railway Company*

10 (Counsel for Defendants listed on signature pages)

11  
12 UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

14 BNSF RAILWAY COMPANY,

Case No. 4:19-cv-07230-HSG

15 Plaintiff,

16 vs.

17 ALAMEDA COUNTY,  
CONTRA COSTA COUNTY,  
FRESNO COUNTY,  
19 KERN COUNTY,  
KINGS COUNTY,  
20 MADERA COUNTY,  
MERCED COUNTY,  
21 ORANGE COUNTY,  
PLUMAS COUNTY  
22 RIVERSIDE COUNTY,  
SAN BERNARDINO COUNTY,  
23 SAN DIEGO COUNTY,  
SAN JOAQUIN COUNTY,  
24 STANISLAUS COUNTY, and  
TULARE COUNTY, CALIFORNIA,

**STIPULATION AND ORDER  
SETTING SCHEDULE FOR  
PRELIMINARY INJUNCTION  
BRIEFING AND CONTINUING CASE  
MANAGEMENT CONFERENCE**

Judge: Hon. Haywood S. Gilliam, Jr.

25 Defendants.  
26

27  
28 Case No. 4:19-cv-07230-HSG

STIPULATION AND ORDER REGARDING PI BRIEFING AND CMC SCHEDULE

## **STIPULATION**

2 WHEREAS, Plaintiff BNSF Railway Company (“BNSF”) filed a Motion for  
3 Preliminary Injunction on December 20, 2019, noticed for hearing on March 5, 2020 at 2 p.m.;

4                   WHEREAS, given the winter holidays and additional time required for  
5 coordination among the fifteen Defendants, the parties have agreed to propose an extended  
6 briefing schedule as described below;

7                   WHEREAS, the current deadline for Defendants to respond to Plaintiff BNSF's  
8 Motion for Preliminary Injunction is January 3, 2020, and the current deadline for Plaintiff BNSF  
9 to file a reply in support of its Motion for Preliminary Injunction is January 10, 2020;

WHEREAS, the parties agree that the deadline for Defendants to file their  
Opposition(s) to Plaintiff BNSF's Motion for Preliminary Injunction should be extended to and  
including February 3, 2020;

13 WHEREAS, the parties agree that the deadline for Plaintiff BNSF to file its Reply  
14 in support of its Motion for Preliminary Injunction should be extended to and including February  
15 20, 2020;

WHEREAS, the parties believe that the interest of judicial economy and the convenience of the parties would be served by continuing the Case Management Conference currently set for February 11, 2020 at 2 p.m. to March 5, 2020 at 2 p.m., to coincide with the hearing on Plaintiff BNSF's Motion for Preliminary Injunction;

WHEREAS, the parties have agreed to confer under Rule 26(f) no later than the existing deadline of January 21, 2020 and have agreed that that deadline should not be extended according to the new date of the Case Management Conference; and

WHEREAS, the parties propose to submit their Rule 26(f) report to the Court by February 27, 2020, as part of their Case Management Statement;

25 NOW THEREFORE, IT IS STIPULATED AND AGREED, by and between  
26 Plaintiff and Defendants, and subject to approval of the Court, that:

27 (1) Defendants shall file their Opposition(s) to Plaintiff BNSF's Motion for  
28 Preliminary Injunction on or before February 3, 2020;

(2) Plaintiff BNSF shall file its Reply in support of its Motion for Preliminary Injunction on or before February 20, 2020;

(3) A hearing on Plaintiff BNSF's Motion for Preliminary Injunction will be held on March 5, 2020 at 2 p.m.;

(4) The Case Management Conference currently set for February 11, 2020 at 2 p.m. is continued to March 5, 2020 at 2 p.m., and the parties' Case Management Statement including Rule 26(f) report is to be filed by February 27, 2020; and

8 (5) The parties' deadline to confer under Rule 26(f) remains January 21, 2020.

1 DATED: December 23, 2019

MUNGER, TOLLES & OLSON LLP

2 By: /s/ Jessica Reich Baril

3 BENJAMIN J. HORWICH

4 (State Bar No. 249090)

5 560 Mission Street, Twenty-Seventh Floor

6 San Francisco, California 94105

7 Telephone: (415) 512-4000

Facsimile: (415) 512-4077

ben.horwich@mto.com

8 JESSICA REICH BARIL

9 (State Bar No. 302135)

10 350 South Grand Avenue, Fiftieth Floor

11 Los Angeles, California 90071

Telephone: (213) 683-9100

Facsimile: (213) 683-5164

jessica.baril@mto.com

12 *Attorneys for Plaintiff BNSF Railway Company*

13  
14  
15 DATED: December 23, 2019

DONNA R. ZIEGLER

16 County Counsel, County of Alameda

17 By: /s/ Farand C. Kan

18 FARAND C. KAN

19 (State Bar No. 203980)

20 Deputy County Counsel, County of Alameda

1221 Oak Street, Suite 450

21 Oakland, California 94612

Telephone: (510) 272-6700

Facsimile: (510) 272-5020

farand.kan@acgov.org

22 *Attorneys for Defendant County of Alameda*

1 DATED: December 23, 2019

SHARON L. ANDERSON  
Contra Costa County Counsel

2 By: /s/ Rebecca J. Hooley

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
Rebecca J. Hooley  
(State Bar No. 212881)  
Deputy County Counsel, Contra Costa County  
651 Pine Street, 9<sup>th</sup> Floor  
Martinez, CA 94553  
Telephone: 9925) 335-1854  
Facsimile: (925) 646-1078  
rebecca.hooley@cc.cccounty.us

*Attorneys for Defendant County of Contra Costa*

DATED: December 23, 2019

COUNTY COUNSEL, COUNTY OF FRESNO

13 By: /s/ Daniel C. Cederborg

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
Daniel C. Cederborg  
(State Bar No. 124260)  
County Counsel, County of Fresno  
2220 Tulare Street, Room 500  
Fresno, CA 93721  
Telephone:(559) 600-3479  
Facsimile: (559) 600-3480 (fax)  
dcederborg@fresnocountyca.gov

*Attorneys for Defendant County of Fresno*

1 DATED: December 23, 2019

MARGO A. RAISON  
County Counsel, Kern County

3 By: /s/ Jerri S. Bradley  
4 Jerri S. Bradley  
5 (State Bar No. 180341)  
6 Deputy County Counsel, County of Kern  
7 1115 Truxtun Avenue, 4th Floor  
8 Bakersfield, CA 93301  
9 Telephone: (661) 868-3819  
Facsimile: (661) 868-3809  
jbradley@kerncounty.com

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

*Attorneys for Defendant County of Kern*

DATED: December 23, 2019

LEE BURDICK  
County Counsel, County of Kings

By: /s/ Diane Walker Freeman  
Diane Walker Freeman  
(State Bar No. 264330)  
Deputy County Counsel  
County of Kings  
1400 W. Lacey Blvd., Bldg #4  
Hanford, CA 93230  
Telephone: (559)852-2445  
Facsimile: (559)584-0865  
diane.freeman@co.kings.ca.us

*Attorneys for Defendant County of Kings*

1 DATED: December 23, 2019

COUNTY COUNSEL, COUNTY OF MADERA

2  
3 By: /s/ Michael R. Linden

4 Michael R. Linden  
5 (State Bar No. 192485)  
6 Deputy County Counsel, County of Madera  
7 7404 N Spalding Ave.  
8 Fresno, CA 93720  
9 Telephone: (559) 431-5600  
10 Facsimile: (559) 261-9366  
11 mlinden@lozanosmith.com

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
*Attorneys for Defendant County of Madera*

DATED: December 23, 2019

COUNTY COUNSEL, MERCED COUNTY

10 By: /s/ Forrest W. Hansen

11 Forrest W. Hansen  
12 (State Bar No. 235432)  
13 Assistant County Counsel  
14 Merced County Counsel  
15 2222 M Street, Room 309  
16 Merced, CA 95340  
17 Telephone: (209) 385-7564  
18 Facsimile: (209) 726-1337  
19 forrest.hansen@countyofmerced.com

20  
21  
22  
23  
24  
25  
26  
27  
28  
*Attorneys for Defendant County of Merced*

1 DATED: December 23, 2019

COUNTY COUNSEL, ORANGE COUNTY

2  
3 By: /s/ Steven C. Miller

4 Steven C. Miller  
5 (State Bar No. 112951)  
6 Senior Deputy County Counsel  
7 County of Orange  
8 333 West Santa Ana Blvd., 4th Floor  
9 Santa Ana, CA 92701  
10 Telephone: (714) 834-3304  
11 steven.miller@coco.ocgov.com

12  
13  
14 *Attorneys for Defendant County of Orange*

15 DATED: December 23, 2019

COUNTY COUNSEL, PLUMAS COUNTY

16  
17 By: /s/ Gretchen Stuhr

18 Gretchen Stuhr  
19 (State Bar No. 236869)  
20 Deputy County Counsel III  
21 520 Main Street, Room 302  
22 Quincy, CA 95971  
23 Telephone: (530) 283-6240  
24 GretchenStuhr@countyofplumas.com

25  
26  
27 *Attorneys for Defendant County of Plumas*

1 DATED: December 23, 2019

COUNTY COUNSEL, RIVERSIDE COUNTY

2  
3 By: /s/ Ronak N. Patel

4 Ronak N. Patel

5 (State Bar No. 249982)

6 Deputy County Counsel, Riverside County

7 3960 Orange Street, Ste. 500

8 Riverside, CA 92501

9 Telephone: (951) 955-6321

10 Facsimile: (951) 955-6363

11 RPatel@rivco.org

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
*Attorneys for Defendant County of Riverside*

DATED: December 23, 2019

MICHELLE D. BLAKEMORE

County Counsel, County of San Bernardino

By: /s/ Kristina M. Robb

Kristina M. Robb

(State Bar No. 239353)

Deputy County Counsel

San Bernardino County

385 N. Arrowhead Ave., Fl. 4

San Bernrdno, CA 92415

Telephone: (909) 387-5436

KRobb@cc.sbcounty.gov

*Attorneys for Defendant County of San Bernardino*

1 DATED: December 23, 2019

COUNTY COUNSEL, SAN DIEGO COUNTY

2  
3 By: /s/ Laura E. Dolan

4 Laura E. Dolan  
5 (State Bar No. 302859)  
6 Senior Deputy County Counsel  
7 Office of County Counsel, San Diego County  
8 1600 Pacific Highway, Room 355  
9 San Diego, CA 92101  
10 Telephone: (619) 531-5801  
11 Laura.Dolan@sdcounty.ca.gov

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
*Attorneys for Defendant County of San Diego*

DATED: December 23, 2019

COUNTY COUNSEL, SAN JOAQUIN  
COUNTY

By: /s/ Richard Flores

Richard Flores  
(State Bar No. 99281)  
Assistant County Counsel, County of San Joaquin  
44 N. San Joaquin St., Ste. 679  
Stockton, CA 95202  
County: San Joaquin County  
Telephone: (209) 468-2980  
Facsimile: (209) 468-0315  
rflores@sjgov.org

*Attorneys for Defendant County of San Joaquin*

1 DATED: December 23, 2019

THOMAS E. BOZE  
Stanislaus County Counsel

3 By: /s/ Daniel Solish

4 Daniel Solish  
5 (State Bar No. 279446)  
6 Deputy County Counsel  
7 County of Stanislaus  
8 1010 10th Street, Suite 6400  
9 Modesto, CA 95354  
Telephone: (209) 525-6376  
Fascimile: (209) 525-4473  
solishd@stancounty.com

10 *Attorneys for Defendant County of Stanislaus*

13 DATED: December 23, 2019

14 DEANNE H. PETERSON  
Tulare County Counsel

15 By: /s/ Kathleen A. Taylor

16 Kathleen A. Taylor  
17 (State Bar No. 131100)  
Chief Deputy County Counsel  
18 County of Tulare  
2900 W. Burrel Avenue  
Visalia, CA 93230  
Telephone: 559-636-4950  
Facsimile: 559-737-4319  
ktaylor@co.tulare.ca.us

22 *Attorneys for Defendant County of Tulare*

28

Upon presentation of the parties' stipulation and good cause shown, IT IS SO ORDERED.

DATED: 12/26/2019

Haywood S. Gilliam, Jr.  
HON. HAYWOOD S. GILLIAM, JR.

HON. HAYWOOD S. GILLIAM, JR.

UNITED STATES DISTRICT JUDGE